

State of California

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Legislative Change No.**04-33**Bill Number: AB 2328Author: WylandChapter Number: 04-782Laws Affecting Franchise Tax Board: Revenue and Taxation Code Sections 23809 and 24654Date Filed with the Secretary of the State: September 25, 2004

SUBJECT: S Corporations/Built in Gains Tax/Conformity/Accrual Method

Assembly Bill 2328 (Wyland), made the following changes to California law:

Section 23809 of the Revenue and Taxation Code is amended.

For "C" corporations required to be an "S" corporation for state purposes under the provisions of AB 1122 (Stats. 2002, Ch. 35), as amended, this act will change, for purposes of determining the California Built In Gain (BIG) tax, the California "S" election date from the first day of the taxable year beginning in 2002 to the federal "S" election date. Because the provisions of AB 1122 apply to corporations that were federal "S" corporations prior to January of 2002, the federal election date will always be earlier than the first day the corporation became an "S" corporation for California. In the case of corporations that were federal "S" corporations prior to 1993, they will never be subject to the California BIG tax.

Section 24654 of the Revenue and Taxation Code is amended.

Under the Corporation Tax Law, this act will conform state law to the Job Creation and Worker Assistance Act of 2002 federal tax law change with respect to the use of the accrual method of accounting. The federal law change further restricts the use of the cash method of accounting, thus requiring more taxpayers to use the accrual method of accounting.

As a tax levy, this act is effective immediately. The provision changing the effective date of the "S" corporation election for state purposes to the federal "S" corporation election date applies to taxable years beginning on or after January 1, 2002. The provision conforming to the use of the accrual method of accounting applies to taxable years beginning on or after January 1, 2003.

This act will not require any reports by the department to the Legislature.

Bureau Director

Jana Howard for Brian Putler

Date

10/14/04